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Message Text

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16/47
ACTION NEA-16

INFO OCT-01 ISO-00 SSO-00 NSCE-00 INRE-00 USIE-00 SS-20

NSC-07 SCA-01 SCS-03 PRS-01 L-03 CIAE-00 INR-11

NSAE-00 RSC-01 H-03 DRC-01 /068 W
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O 281630Z SEP 74 ZFF4
FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC NIACT IMMEDIATE 4171

C O N F I D E N T I A L NEW DELHI 12995

C O R R E C T E D C O P Y FOR MRN

FOLLOWING TELEGRAM SENT ACTION NEW DELHI NIACT IMMEDIATE NOW
REPEATED FOR YOUR INFO

QUOTE

C O N F I D E N T I A L CALCUTTA 2062

E.O. 11652: GDS
TAGS : CASC PFOR IN
SUBJECT : HARCOS/FLETCHER

1. BAIL - CITY SESSIONS COURT RULED ON SEPT 28 1974, THAT THE TWO PRISONERS CAN BE RELEASED TO FLAT AT 8C ROYD STREET (OWNED BY DEFENSE LAWYER BHOSE) ON POSTING OF BOND OF RS. 10,000 EACH AND AGREEMENT TO HOUSE ARREST CONDITONS AND LIMITED ACCESS TO PRISONERS. CONFERENCE WITH LAWYERS AND EXAMINATION BY DOCTORS WILL BE PERMITTED WITHOUT POLICE MONITORYING (THIS OVER PROSECUTION'S OBJECTION).

2. DEFENSE LAWYER BHOSE BELIEVES THE BAIL CAN BE POSTED, ALL FORMALITIES COMPLETED, AND THE MOVE MADE BY TUESDAY, OCT. 1.

3. BHOSE SAID THAT WHEN HE INFORMED HARCOS AND FLETCHER OF THIS DEVELOPMENT LATE THIS AFTERNOON THEY WERE "OVERJOYED, SEEMED TO
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HAVE A NEW LEASE ON LIFE." HE URGED THEM TO RESUME NASAL

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FEEDING, AT A MINIMUM, SO THAT THEY WILL BE PHYSICALLY ABLE TO LEAVE THE JAIL BY OCT. 1 AND APPEAR FOR THE BEGINNING OF THE TRIAL OCT. 4. HE FEELS THAT THEY WILL FOLLOW HIS ADVICE. IN FACT, HE REPORTS THAT THEY WERE DISCUSSING AMONG OTHER THINGS THEIR "FOOD BUDGET" IN RELATION TO THE HIGHER COST OF THIS FLAT RELATIVE TO SALVATION ARMY HOSTEL.

4. WHEN I SAW CHIEF MINISTER RAY HE SAID IMMEDIATELY, "AT LEAST WE HAVE GOT BAIL." I THANKED HIM FOR HIS INTERVENTION, WITHOUT WHICH WE WOULD NEVER HAVE GOT IT, BUT WENT TO TELL HIM HOW UNHAPPY WE HAD BEEN AT PROSECUTION'S UNEXPECTED OBJECTION TO SALVATION ARMY HOSTEL, ONE IN A LONG AND UNINTERRUPTED CHAIN OF UNHELPFUL ACTIONS. I POINTED OUT THAT THE APPROVED QUARTERS WOULD COST
TWICE AS MUCH AS SALVATION ARMY. SHOULD THE PROCEEDINGS BE PROLONGED THAT COULD BE VERY DIFFICULT FOR THE PRISONER'S RELATIVES AND SUPPORTERS. HE DICTATED A MEMO TO CHIEF SECRETARY (WHO WAS UNAVAILABLE AT THE TIME) ASKING WHY THE PROSECUTION HAD OBJECTED TO SALVATION ARMY AND URGING THAT THE PRISONERS BE PERMITTED TO SHIFT TO THESE LESS EXPENSIVE QUARTERS.

5. CONSULAR ACCESS TO PRISONERS - PROSECUTION OBJECTED TO CONTINUATION OF OUR THRICE-WEEKLY ACCESS ONCE THE PRISONERS WERE RELEASED TO HOUSE ARREST, OFFERING FORTNIGHTLY ACCESS. TO AVOID POSSIBLE FURTHER DELAY OR AN EVEN MORE ADVERSE RULING, CONSUL O'NEILL AGREED TO JUDGE'S PROPOSAL OF TWICE-WEEKLY ACCESS DURING HUNGER STRIKE AND WEEKLY ACCESS UPON CESSATION OF HUNGER STRIKE.

6. I CITED PROSECUTION'S ATTITUDE ON THIS QUESTION TO CHIEF MINISTER AS INDICATIVE OF ITS WHOLE APPROACH. I SAID WE WERE MOST RELUCTANT TO GIVE UP THRICE-WEEKLY ACCESS AT A TIME WHEN THE HEALTH OF THE PRISONERS WAS MORE PRECARIOUS THAN EVER BEFORE. I RECALLED THAT EVERY TIME I HAD A CONSUL REPLACED, ON LEAVE, ETC., PROSECUTION HAD OBJECED TO ACCESS BY THE REPLACEMENT, NECESSITATING MY SEEKING CHIEF SECRETARY'S INTERVENTION ON EVERY OCCASION. CHIEF MINISTER IN HIS MEMO TO CHIEF SECRETARY RAISED THE QUESTION OF WHY PROSECTUION OBJECTED AND SUGGESTED PROSECUTION AGREE TO RESTORATION OF THRICE-WEEKLY VISITS.

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7. COMMENT: I BELIEVE CONSUL O'NEILL ACTED ENTIRELY CORRECTLY IN HIS HANDLING OF A DIFFICULT AND FAST-MOVING COURTROOM SITUATION. THE FACT IS WE THINK WE COULD LIVE WITH TWICE WEEKLY VISITATION IF SUPPLEMENTED BY TIMELY ACCESS TO MEDICAL OFFICER'S REPORTS ON THE CONDITION OF THE PRISONERS. NONETHELESS, I AM PLEASED TO SEE SOME ADDITIONAL PRESSURE BROUGHT ON PROSECUTION AND WILL CONTINUE TO TRY TO FORCE REMOVAL OF THEIR OBJECTION.

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8. START OF TRIAL - TRIAL WILL BEGIN OCT. 4. LAWYER BHOSE FEELS CERTAIN HE WILL APPEAL THE IN CAMERA RULING AFTER HE COMPLETES INITIAL INSPECTION OF DOCUMENTS (OCT. 1). BOTH PRISONERS INSIST ON THIS APPEAL. HOWEVER, BHOSE WILL NOT RPT NOT SEEK A STAY OF PROCEEDINGS PENDING OUTCOME OF THIS APPEAL, AND TRIAL WILL GO ON IN CAMERA WHILE APPEAL IS BEFORE THE HIGH COURT. BHOSE NOW EXPECTS COMPLETIONOF FRAMING OF CHARGES AND OF INITIAL STATEMENTS BY PROSECUTION AND DEFENSE BEFORE OCTOBER PUJA RECESS (UNTIL NOV. 11).

9. CONSULAR ACCESS TO TRIAL - I MADE ANOTHER STRONG APPEAL TO CHIEF MINISTER TO GET PROSECUTION TO WITHDRAW ITS OBJECTION TO OUR ACCESS. I POINTED OUT THAT WITH BAIL NOW GRANTED, SATISFACTORY RESOLUTION OF THIS ISSUE WOULD IN EFFECT REMOVE THE HARCOS-FLETCHER CASE FROM THE AGENDA OF RELATIONS BETWEEN OUR TWO COUNTRIES,

EVEN THOUGH JUDICIAL PROCEEDINGS MIGHT CONTINUE FOR SOME TIME THEREAFTER.
I RECITED AGAIN OUR WILLINGNESS TO RESPECT CONFIDENTIALITY, ETC.
HE ADDED THIS TO HIS MEMO TO CHIEF SECRETARY AND SAID HE DEVOUTLY WISHED THE ISSUE DISPOSED OF.

10. CONDITION OF PRISONERS - WHILE THE PRISONERS MORALE OBVIOUSLY GOT A TREMENDOUS BOOST FROM TODAY'S DEVELOPMENTS (ABOVE, PARA 3), THE REPORT OF THE CHIEF MEDICAL OFFICER OF WEST BENGAL PRISONS EARLIER IN THE DAY WAS OF SERIOUS CONCERN. THE DOCTOR EXPRESSED HIS SEROUS CONCERN WITH THEIR REFUSAL TO ACCEPT NASAL FEEDING. HE NOTED THAT WITH NASAL FEEDING THEY WERE RECEIVING APPROXIMATELY 3,000 CALORIES PER DAY PLUS PROTEINS AND NOW WITH JUST TEA, SUGAR AND LIME THEY WERE RECEIVING APPROXIMATELY 1,500 TO 1,600 CALORIES AND NO RPT NO PROTEIN. IT WAS THE LATTER THAT SEEMED TO CAUSE THE DOCTOR THE MOST CONCERN. HE HAS REQUESTED HARCOS AND FLETCHER TO TAKE PROTEIN X OR COMPLAN RPT COMPLAN IN ADDITION TO THEIR
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TEA, LIME AND SUGAR, BUT THEY REFUSED. IN ADDITION, HE NOTED AN INCREASE IN THE NUMBER OF CIGARETTES THAT THEY WERE SMOKING WHICH HE EMPHASIZED WAS VERY BAD. HE WAS RELUCTANT TO ORDER THE CIGARETTE SMOKING STOPPED FOR PSYCHOLOGICAL REASONS.

11. HOPEFULLY THE FAVORABLE TURN OF EVENTS WILL LEAD THE PRISONERS TO ABANDON THE HUNGER STRIKE, ATLEAST INITS MOST EXTREME FORM. MEANWHILE WE WILL KEEP IN CLOSE TOUCH WITH THE MEDICAL OFFICER, WHO IMPRESSED CONSUL O'NEILL AS A CONCERNED, SYMPATHETIC PHYSICIAN.

12. CONCLUSION - INVOKING CHIEF MINISTER AGAIN ON THE BAIL USSE WAS EFFECTIVE BECAUSE HE IS ON THE HOOK WITH THE PRIME MINISTER ON THAT ISSUE. WE WILL TRY TO MAKE THE MOST OF HIS INTERVENTION ON THE MUCH MORE DIFFICULT ISSUE OF OUR ACCESS TO THE TRIAL.

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13. INCIDENTALLY RAY ADDED AT THE END OF HIS MEMO TO CHIEF SECRETARY, "LET'S GET PROSECUTION IN AND INSTRUCT THEM TO DROP THEIR STICKY ATTITUDE."
PICKERING
UNQUOTE
SCHNEIDER

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